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S. 3627

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal information across all data brokers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2022

Mr. CASSIDY (for himself and Mr. OSBOURNE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal information across all data brokers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Data Elimination and
5 Limiting Extensive Tracking and Exchange Act” or the
6 “DELETE Act”.

7 **SEC. 2. DATA DELETION REQUIREMENTS.**

8 (a) DATA BROKER ANNUAL REGISTRATION.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this section, the Commis-
3 sion shall promulgate regulations to require any data
4 broker to—

5 (A) not later than 18 months after the
6 date of enactment of this section, and annually
7 thereafter, register with the Commission; and
8 (B) provide the following information with
9 such registration:

10 (i) The name and primary physical,
11 email, and uniform resource locator (URL)
12 addresses of the data broker.

13 (ii) If the data broker permits an indi-
14 vidual to opt out of the data broker's col-
15 lection or use of personal information, cer-
16 tain sales of such information, or its data-
17 bases—

18 (I) the method for requesting an
19 opt-out;

20 (II) any limitations on the type
21 of data collection, uses, or sales for
22 which an individual may opt out; and

23 (III) whether the data broker
24 permits an individual to authorize a

8 (iv) A statement as to whether the
9 data broker implements a credentialing
10 process and, if so, a description of that
11 process.

12 (v) Any additional information or ex-
13 planation the data broker chooses to pro-
14 vide concerning its data collection prac-
15 tices.

16 (vi) Any other information determined
17 appropriate by the Commission.

18 (2) PUBLIC AVAILABILITY.—

- (i) determines that the risk of making such information available is not in the interest of public safety or welfare; and
- (ii) provides a justification for such determination.

(B) DISCLAIMER.—The Commission shall include on the website of the Commission a disclaimer that—

15 (b) CENTRALIZED DATA DELETION SYSTEM.—

16 (1) ESTABLISHMENT.—

(i) implements and maintains reasonable security procedures and practices (including administrative, physical, and technical safeguards) appropriate to the nature of the information and the purposes for

which the personal information will be used, to protect individuals' personal information from unauthorized use, disclosure, access, destruction, or modification; and

(ii) allows an individual, through a single submission, to request that every data broker who is registered under subsection (a) and who maintains any persistent identifiers (as described in subparagraph (B)(iii)) delete any personal information related to such individual held by such data broker or affiliated legal entity of the data broker.

(B) REQUIREMENTS.—The centralized system established in subparagraph (A) shall meet the following requirements:

(i) Subject to the regulations promulgated in accordance with paragraph (2)(B)(ii), the centralized system shall allow an individual to request the deletion of all personal information related to such individual through a single deletion request.

(ii) The centralized system shall provide a standardized form to allow an individual to make such request.

(iii) Such standardized form shall include the individual's email, phone number, physical address, and any other persistent identifier determined by the Commission to aid in the deletion request.

(iv) The centralized system shall automatically hash all submitted information and allow the Commission to maintain independent hashed registries of each type of information obtained through such form.

(v) The centralized system shall only permit data brokers who are registered with the Commission to submit hashed queries to the independent hashed registries described in clause (iv).

(vi) The centralized system shall allow an individual to make such request using an internet website operated by the Commission.

(vii) The centralized system shall not charge the individual to make such request.

(viii) The centralized system shall automatically delete any individual data field stored in the system once such data field has been stored in the centralized system for 2 years. The Commission shall inform the individual of this automatic deletion period when the individual makes a deletion request. Beginning 4 years after the date of enactment of this Act, the Commission may promulgate rules to adjust such retention period or enable automatic renewal of requests if it determines that such adjustment or automatic renewal would better protect individual privacy or the public interest.

(C) TRANSITION.—

(i) IN GENERAL.—Not later than 8 months after the effective date of the regulations promulgated under subparagraph (A), each data broker shall—

(I) not less than once every 31 days, access the hashed registries maintained by the Commission as described in subparagraph (B)(iv); and

(II) process any deletion request associated with a match between such hashed registries and the records of the data broker.

(ii) FTC GUIDANCE.—Not later than 6 months after the effective date of the regulations promulgated under subparagraph (A), the Commission shall publish guidance on the process and standards to which a data broker must adhere in carrying out clause (i).

(2) DELETION.—

(A) INFORMATION DELETION.—

(i) IN GENERAL.—Subject to clause (ii), not later than 31 days after accessing the hashed registries described in paragraph (1)(B)(iv), a data broker and any associated legal entity shall delete all personal information in its possession related to the individual making the request. Immediately following the deletion, the data broker shall send an affirmative representation to the Commission with the number of records deleted pursuant to each match with a value in the hashed registries.

(ii) EXCLUSIONS.—In carrying out clause (i), a data broker may retain, where required, the following information:

(I) Any personal information that is processed or maintained solely as part of human subjects research conducted in compliance with any legal requirements for the protection of human subjects.

(II) Any personal information necessary to comply with a warrant, subpoena, court order, rule, or other applicable law.

(III) Any personal information related to the suppression list described in subparagraph (B)(ii).

(IV) Any information necessary for an activity described in subsection (e)(3)(B), provided that the retained information is used solely for any such activity.

(iii) USE OF INFORMATION.—Any personal information excluded under clause may only be used for the purpose described in the applicable subclause of

1 clause (ii), and may not be used for any
2 other purpose, including marketing pur-
3 poses.

4 (B) DO NOT TRACK LIST; SUPPRESSION
5 LIST.—

6 (i) DO NOT TRACK LIST.—Not later
7 than 18 months after the date of enact-
8 ment of this section, the Commission shall
9 promulgate regulations to prohibit any
10 data broker registered under subsection (a)
11 from collecting or retaining personal infor-
12 mation on any individual who has sub-
13 mitted a deletion request through the cen-
14 tralized system established in paragraph
15 (1)(A), unless such data collection is re-
16 quested by the individual.

17 (ii) SUPPRESSION LIST.—Not later
18 than 18 months after the date of enact-
19 ment of this section, the Commission shall
20 promulgate regulations to ensure that—

21 (I) any individual who submits a
22 deletion request through the central-
23 ized system established in paragraph
24 (1) shall be included on the Do Not
25 Track list described in clause (i); and

(II) each data broker registered under subsection (a)—

(aa) may not collect or retain more personal information than is necessary to identify an individual who is included on the Do Not Track list; and

(bb) in the case that unnecessary personal information is collected or retained, shall immediately delete any personal information not required to comply with the regulations promulgated under this subparagraph.

(C) ANNUAL REPORT.—Each data broker registered under subsection (a) shall submit to the Commission, on an annual basis, a report on—

(i) the completion rate with respect to the completion of deletion requests under subparagraph (A); and

(ii) the effectiveness of the suppression list under subparagraph (B)(ii), including—

(I) the number of times the data broker collected personal information related to an individual included on the suppression list;

(II) the number of times the data broker collected data resulting in a match with the hashed registries maintained by the Commission as described in paragraph (1)(B)(iv); and

(III) whether the regulations promulgated under subparagraph (B) and the structure or format of the hashed registries promote efficient comparison of the suppression list with information collected or retained by the data broker.

(D) AUDIT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this section, and every 3 years thereafter, each data broker registered under subsection (a) shall undergo an independent third party audit to determine compliance with this subsection.

(ii) AUDIT REPORT.—Not later than 6 months after the completion of any audit under clause (i), each such data broker shall submit to the Commission any report produced as a result of the audit, along with any related materials.

11 (3) ANNUAL FEE.—

(B) LIMIT.—The amount of the subscription fee under subparagraph (A) may not exceed 1 percent of the expected annual cost of operating the centralized system and hashed registries described in paragraph (1), as determined by the Commission.

10 (c) ENFORCEMENT BY THE COMMISSION.—

18 (2) POWERS OF THE COMMISSION.—

16 (d) STUDY AND REPORT.—

17 (1) STUDY.—The Commission shall conduct a
18 study on the implementation and enforcement of this
19 section. Such study shall include—

20 (A) an analysis of the effectiveness of the
21 centralized system established in subsection
22 (b)(1)(A);

23 (B) the number deletion requests sub-
24 mitted annually using such centralized system;

(D) any other area determined appropriate by the Commission.

14 (A) the results of the study conducted
15 under paragraph (1);

21 (e) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Federal Trade Commission.

1 (2) CREDENTIALLING PROCESS.—The term
2 “credentialing process” means the practice of taking
3 reasonable steps to confirm—

- 4 (A) the identity of the entity with whom
5 the data broker has a direct relationship;
6 (B) that any data disclosed to the entity
7 by such data broker will be used for the de-
8 scribed purpose of such disclosure; and
9 (C) that such data will not be used for un-
10 lawful purposes.

11 (3) DATA BROKER.—

12 (A) IN GENERAL.—The term “data
13 broker” means an entity that knowingly collects
14 or obtains the personal information of an indi-
15 vidual with whom the entity does not have a di-
16 rect relationship and then—

- 17 (i) uses the personal information to
18 perform a service for a third party; or
19 (ii) sells, licenses, trades, provides for
20 consideration, or is otherwise compensated
21 for disclosing personal information to a
22 third party.

23 (B) EXCLUSION.—The term “data broker”
24 does not include an entity who solely uses, sells,
25 licenses, trades, provides for consideration, or is

1 otherwise compensated for disclosing personal
2 information for one or more of the following ac-
3 tivities:

4 (i) Providing 411 directory assistance
5 or directory information services, including
6 name, address, and telephone number, on
7 behalf of or as a function of a tele-
8 communications carrier.

9 (ii) Providing an individual's publicly
10 available information if the information is
11 being used by the recipient as it relates to
12 that individual's business or profession.

13 (iii) Providing or using personal infor-
14 mation in a manner that is regulated
15 under another Federal or State law, in-
16 cluding the Fair Credit Reporting Act, the
17 Gramm-Leach-Bliley Act, or the Health
18 Insurance Portability and Accountability
19 Act.

20 (iv) Providing personal information to
21 a third party at the express direction of
22 the individual for a clearly disclosed single-
23 use purpose.

24 (v) Providing or using personal infor-
25 mation for assessing, verifying, or authen-

1 ticipating an individual's identity, or for in-
2 vestigating or preventing actual or poten-
3 tial fraud.

4 (vi) Gathering, preparing, collecting,
5 photographing, recording, writing, editing,
6 reporting, or publishing news or informa-
7 tion that concerns local, national, or inter-
8 national events or other matters of public
9 interest for dissemination to the public.

10 (C) EXCLUSION FROM SALE.—

11 (i) IN GENERAL.—For purposes of
12 this paragraph, the term “sells” does not
13 include a one-time or occasional sale of as-
14 sets of an entity as part of a transfer of
15 control of those assets that is not part of
16 the ordinary conduct of the entity.

17 (ii) NOTICE REQUIRED.—To meet the
18 exclusion criteria described in clause (i), an
19 entity must provide notice to the Commis-
20 sion, in the manner determined appro-
21 priate by the Commission, of any such one-
22 time or occasional sale of assets.

23 (4) DELETE.—The term “delete” means to re-
24 move or destroy information such that the informa-
25 tion is not maintained in human- or machine-read-

1 able form and cannot be retrieved or utilized in such
2 form in the normal course of business.

3 (5) DIRECT RELATIONSHIP.—

4 (A) IN GENERAL.—The term “direct rela-
5 tionship” means a relationship between an indi-
6 vidual and an entity where the individual—

- 7 (i) is a current customer;
8 (ii) has obtained a good or service
9 from the entity within the prior 18
10 months; or
11 (iii) has made an inquiry about the
12 products or services of the entity within
13 the prior 90 days.

14 (B) EXCLUSION.—The term “direct rela-
15 tionship” does not include a relationship be-
16 tween an individual and a data broker where
17 the individual’s only connection to the data
18 broker is based on the individual’s request—

- 19 (i) for the data broker to delete the
20 personal information of the individual; or
21 (ii) to opt out of the data broker’s col-
22 lection or use of personal information, cer-
23 tain sales of such information, or its data-
24 bases.

1 (6) HASH.—The term “hash” means to input
2 data to a cryptographic, one-way, collision resistant
3 function that maps a bit string of arbitrary length
4 to a fixed-length bit string to produce a cryp-
5 tographically secure value.

6 (7) HASHED.—The term “hashed” means the
7 type of value produced by hashing data.

8 (8) HUMAN SUBJECTS RESEARCH.—The term
9 “human subjects research” means research that—

10 (A) an investigator (whether professional
11 or student) conducts on a living individual; and

12 (B) either—

13 (i) obtains information or biospeci-
14 mens through intervention or interaction
15 with the individual, and uses, studies, or
16 analyzes the information or biospecimens;
17 or

18 (ii) obtains, uses, studies, analyzes, or
19 generates personal information or identifi-
20 able biospecimens.

21 (9) PERSONAL INFORMATION.—

22 (A) IN GENERAL.—The term “personal in-
23 formation” means any information held by a
24 data broker, regardless of how the information
25 is collected, inferred, created, or obtained, that

1 is linked or reasonably linkable by the data
2 broker to a particular individual or consumer
3 device, including the following information:

- 4 (i) Financial information, including
5 any bank account number, credit card
6 number, debit card number, or insurance
7 policy number.
- 8 (ii) A name, alias, home or other
9 physical address, online identifier, Internet
10 Protocol address, email address, account
11 name, State identification card number,
12 driver's license number, passport number,
13 or an identifying number on a government-
14 issued identification.
- 15 (iii) Geolocation information.
- 16 (iv) Biometric information.
- 17 (v) The contents of, attachments to,
18 or parties to information, including with
19 respect to email, text messages, picture
20 messages, voicemails, audio conversations,
21 or video conversations.
- 22 (vi) Web browsing history, including
23 any search query.
- 24 (vii) Genetic sequencing information.

(viii) A device identifier, online identifier, persistent identifier, or digital fingerprinting information.

(ix) Any inference drawn from any of the information described in this paragraph that is used to create a profile about an individual that reflects such individual's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, or aptitudes.

(x) Any other information determined appropriate by the Commission.

(B) LINKED OR REASONABLY LINKABLE.—

For purposes of subparagraph (A), information is “linked or reasonably linkable” to a particular individual or consumer device if the information can be used on its own or in combination with other information held by or readily accessible to a data broker to identify a particular individual or consumer device.

(10) PROCESS.—The term “process” means to perform or direct the performance of an operation on personal information, including the collection, transmission, use, disclosure, analysis, prediction, or

1 modification of such personal information, whether
2 or not by automated means.

3 (11) UNIFORM RESOURCE LOCATOR; URL.—The
4 term “uniform resource locator” or “URL” means a
5 short string containing an address that refers to an
6 object on the web.

